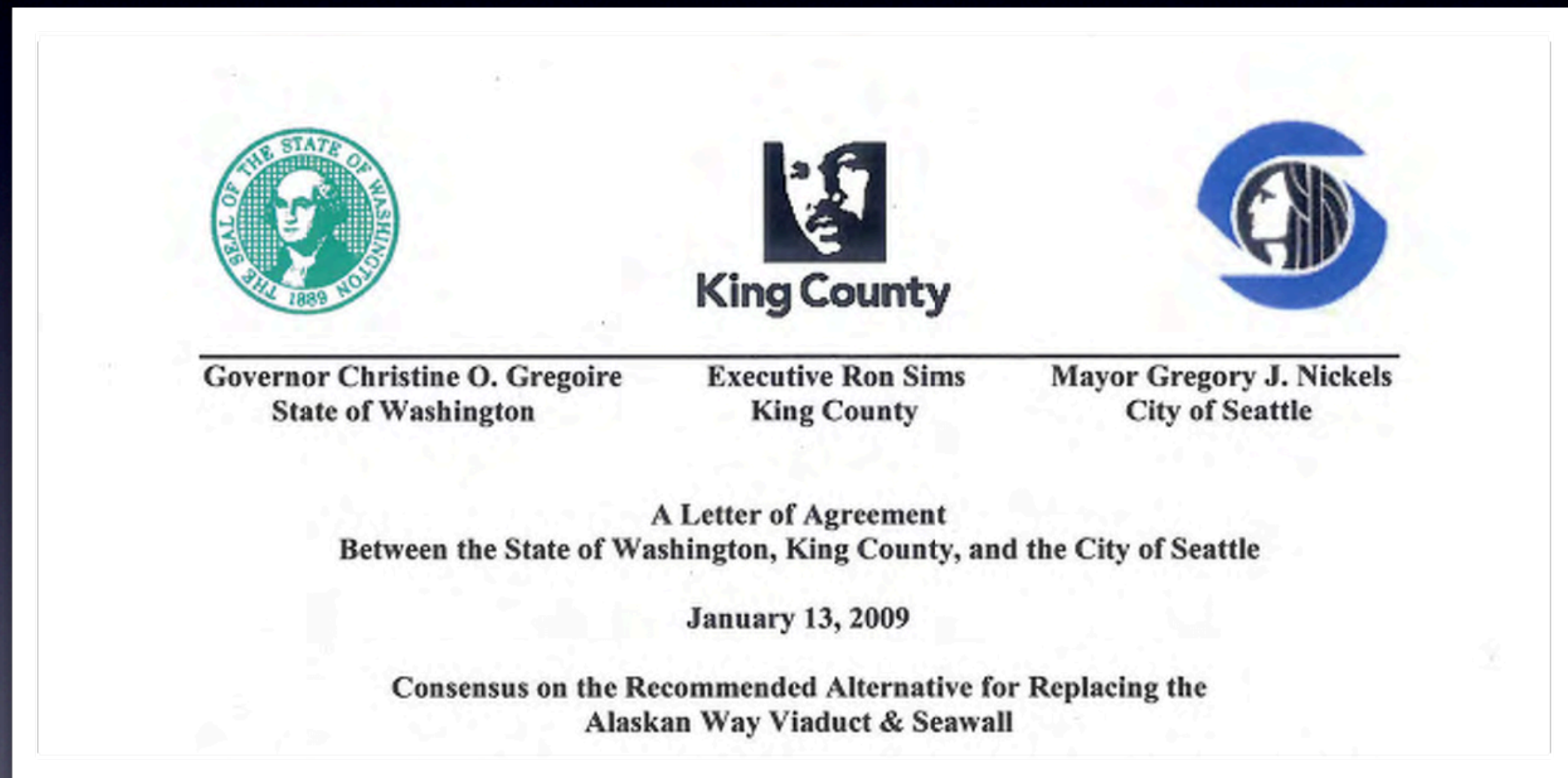


# Deep Bore Tunnel Update

June 28, 2010

# Governor Gregoire, Executive Sims, and Mayor Nickels sign an agreement choosing a tunnel.



**JANUARY 2009**

*Tunnel Construction*

*Final EIS*

2009

2010

2011



# That agreement provides that the state will pay cost overruns

The total estimated cost of this solution is approximately \$4.24 billion and the allocation of specific project responsibility to each jurisdiction carries with it the responsibility for project management, environmental work, design, construction, and project cost overruns

JANUARY 2009

2009

2010

2011

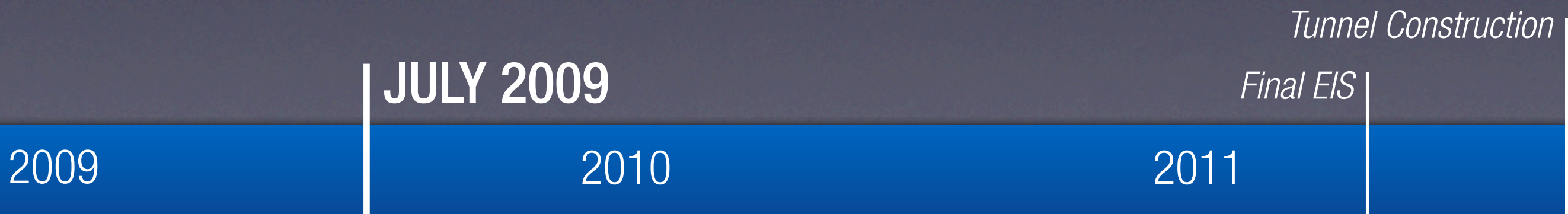
*Final EIS*

*Tunnel Construction*

# Legislature caps state contribution

The state's contribution shall not exceed two billion four hundred million dollars. If costs exceed two billion four hundred million dollars, no more than four hundred million [dollars] of the additional costs shall be financed with toll revenue.

RCW 47.01.402

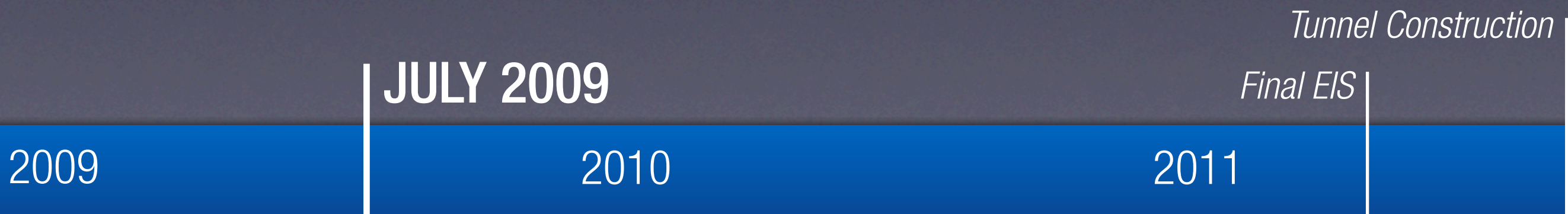




# State requires Seattle to pay all cost overruns

Any costs in excess of two billion eight hundred million dollars shall be borne by property owners in the Seattle area who benefit from replacement of the existing viaduct with the deep bore tunnel.

RCW 47.01.402



# City Council chooses tunnel, signs Memorandum of Agreement

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. It is the City's policy that the Alaskan Way Viaduct and Seawall Replacement (AWVSR) Program Bored Tunnel Alternative, as described in the Memorandum of Agreement attached hereto as Attachment 1, is the preferred solution for replacing the existing Alaskan Way Viaduct.

SEATTLE ORDINANCE 123133





# Letter to Governor Gregoire

I hope that we can work constructively to resolve these issues. To that end, I have instructed my representatives on the City team to negotiate in good faith toward comprehensive master agreements. The Project Oversight Committee of senior elected officials, which you are now reconvening, should provide a useful forum to develop agreement on plans for cost overruns and other issues that cannot be resolved at the staff level. If there is an impasse on these issues, and the State holds firm on its intent that Seattle property owners will bear the full cost of any overruns, I will promptly seek a City Council determination of whether a majority nevertheless wants work on the tunnel to proceed. As Mayor, I will not support an agreement that leaves Seattle taxpayers at risk for tunnel cost overruns.

MAYOR MIKE MCGINN



# Negotiation

- City staff have been working with WSDOT to negotiate agreements
- These agreements define the parties' respective responsibilities for the project
- Utility relocation, permitting, environmental issues, insurance and bonding





**These agreements should also make it absolutely clear what the parties' respective responsibilities are for funding the project.**



# State rejects proposed provision on overruns

The STATE shall provide necessary funding for all PROJECT costs without reimbursement from the City of Seattle, except for the City of Seattle cost responsibilities established in [these Agreements]. If for any reason PROJECT costs exceed the State funding limit established by RCW 47.01.402, the STATE shall have the sole responsibility for obtaining any needed additional spending authority without recourse to any funding device that burdens Seattle area taxpayers or property owners or the City of Seattle.





# Governor: WSDOT can't fix the cost overrun issue

**You can't ask Ron [Paananen], you can't ask Paula [Hammond] to make a commitment that is outside the parameters of their job. It would be an *ultra vires* act.**

GOVERNOR CHRIS GREGOIRE, June 3 Oversight Committee meeting

2009

2010

**JUNE 2010**

*Final EIS*

*Tunnel Construction*

2011

*Ultra vires* /éltre váyriyz/. An act performed without any authority to act on subject. Haslund v. City of Seattle, 86 Wash.2d 607, 547 P.2d 1221, 1230.

*Black's Law Dictionary, Sixth ed.*

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# Impasse

2009

2010

**JUNE 2010**

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# Governor supports changing cost overrun provision

**You get it done, you bring it to my desk, I'll sign it.**

-GOVERNOR CHRIS GREGOIRE, June 3 Oversight Committee meeting

2009

2010

**JUNE 2010**

*Final EIS*

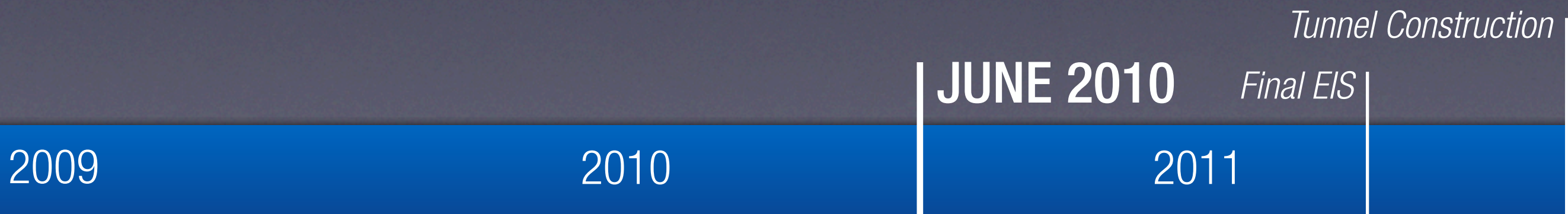
*Tunnel Construction*

2011



# A proposal to finalize agreements and protect Seattle from potential cost overruns

The PARTIES agree that the STATE is responsible for designing and constructing the Proposed Bored Tunnel portion of the PROJECT under ¶2.9 and that it shall provide the funding and resources necessary to fulfill this responsibility pursuant to ¶2.6. Because RCW 47.01.402 may be construed as imposing funding obligations for the design and construction of the Proposed Bored Tunnel portion of the PROJECT that are inconsistent with these provisions, this Agreement shall not take effect unless or until the State Legislature amends State law to clarify that the STATE is responsible for all PROJECT funding including cost overruns.



I am submitting the final agreement with this language to Council for its review

